UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
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OFFICE OF
ECOSYSTEMS,
TRIBAL AND PUBLIC
AFFAIRS

October 29, 2012

Mr. Chris M. Bucher, Operations Engineer
Federal Highway Administration
530 Center Street NE, Suite 420
Salem, Oregon 97301

Ms. Anna Henson, Environmental Project Manager
Oregon Department of Transportation, Region 3
100 Antelope Road
White City, Oregon 97503

Re: OR 62: I-5 to Dutton Road Draft Environmental Impact Statement.
(EPA Region 10 Project Number: 12-0045-FHW)

Dear Mr. Bucher and Ms. Henson:

The U.S. Environmental Protection Agency has reviewed the OR 62: I-5 to Dutton Road Draft Environmental Impact Statement. We are submitting comments in accordance with our responsibilities under the National Environmental Policy Act and Section 309 of the Clean Air Act. Thank you for the opportunity to offer comment.

FHWA and ODOT propose to reduce congestion and improve safety by constructing a new 7.5-mile, four-lane, access-controlled expressway to serve as a bypass of existing OR 62 from Medford to north of White City in Jackson County, Oregon. The project would include the bypass, four interchanges, alterations to local streets and roads, including extensions and closures, and one new, two-lane local road, the Justice/Gregory connector road, to accommodate the bypass.

The Draft EIS presents the No Build and two Build Alternatives: the Split Diamond (SD) Alternative and the Directional Interchange (DI) Alternative. The DEIS also analyzes the JTA Phase, an initial phase that ODOT plans to construct using funds earmarked for the OR 62 project in the Jobs and Transportation Act enacted by the Oregon Legislature in 2009. The JTA Phase will extend only to the southern boundary of White City, where it will connect to existing OR 62 at an intersection rather than an interchange. Three design Options (A, B, and C), which attempt to reduce impacts to natural and socio-economic resources, regulated natural resources, and adjacent businesses and landowners respectively, apply to each of the build scenarios. The DEIS does not identify a Preferred Alternative, however, it states that ODOT and the Citizen Advisory Committee recommend building the SD Alternative with Option C.

We acknowledge the stated needs for the project and appreciate the forthright manner in which the DEIS discloses the many environmental impacts the proposed project would entail. We also appreciate the early and continued involvement in the project through the Collaborative Environmental and

Transportation Agreement on Streamlining (CETAS) process, which has been helpful in efforts to identify, avoid, and minimize impacts to sensitive resources, such as vernal pool wetlands, and to develop acceptable mitigation. We are rating the Draft EIS as EC-2, Environmental Concerns, Insufficient Information. An explanation of this rating and our detailed comments are enclosed. Our main concerns and information needs include the following:

- The project would result in substantial direct and indirect loss and fragmentation of sensitive natural areas and resource lands, including vernal pools and other wetlands, threatened and endangered species habitat, non-ESA wildlife habitat, farm, forest, and open space lands. Alterations to hydrology from these ecosystem alterations may result in additional impacts, such as to vernal pool wetlands, which cannot yet be assessed.
- The direct and indirect effects to natural ecosystems and land use both inside the project area and in outlying communities would be substantially less with the JTA Phase and Option B than with other Alternatives and Options. Limiting the project scope to the JTA Phase with Option B, together with additional local and regional planning and collaboration, could advance the livability and sustainability of the OR 62 project area, and help to protect outlying communities and natural areas from induced travel and growth.
- The ODOT recommended alternative is SD with Option C. The DEIS does not make the case as to why the SD alternative is superior to the DI alternative either in meeting the project's purpose and need, or in reducing overall impacts. The EIS should include analysis to identify the least environmentally damaging practicable alternative, per the 404(b)(1) guidelines. We note that impacts to Bear Creek Greenway, which are Section 6(f) lands and a riparian area that is important for Bear Creek water quality functions and habitat for threatened coho salmon, appear to be avoidable with the DI Alternative or JTA Phase.
- The EIS should provide more specific information regarding mitigation strategies for impacts to vernal pools, fairy shrimp, and endangered plant species, and discuss the likelihood of implementation and success.
- Ecological connectivity is addressed only via fish passage structures. We believe stream crossings and other roadway structures should be suitably located and designed to provide for terrestrial species movement as well, with special focus on meeting the needs of elk and Northwestern pond turtle, as identified through ODFW conservation planning.
- The EIS would be strengthened by addressing alternatives to driving and transportation demand management strategies. The project should incorporate needs and provision for improved public transportation, and do more to increase non-motorized transportation infrastructure, community connectivity, bicycle/pedestrian safety, and smart community design.
- The EIS needs to disclose what was heard from Environmental Justice outreach and how the concerns were addressed. Unmitigated noise impacts are of concern, as well as the potential for disadvantaged populations to be more adversely affected by project impacts than less vulnerable populations. More analysis of impacts and mitigation are needed for the disabled, elderly, children, and households without cars that may be isolated by the proposed project.
- The EIS should identify sensitive receptors for air toxics that could be affected by project construction and operation, and augment construction mitigation measures.

Thank you for the opportunity to review and provide comment on the OR 62 Draft EIS. If you have questions or would like to discuss these comments, please contact me at (206) 553-1601 or by email at reichgott.christine@epa.gov, or you may contact Elaine Somers of my staff at (206) 553-2966 or by email at somers.elaine@epa.gov, or you may contact Yvonne Vallette in our Oregon Operations Office at (503) 326-2716 or by email at vallette.yvonne@epa.gov,

Sincerely,

Christine B. Reichgott, Manager
Environmental Review and Sediment Management Unit

Enclosures

U.S. Environmental Protection Agency
Detailed Comments on the
Oregon 62: I-5 to Dutton Road Draft EIS

Preferred Alternative

For several years, the EPA has worked with FHWA, ODOT, and other agencies to address OR 62 aquatic and other environmental resource issues through the CETAS process. As a result of this involvement, CETAS representatives are familiar with the project history and efforts to inventory, assess, avoid, and otherwise mitigate impacts to sensitive resources, imperiled species and habitats. Design Option B was developed for this reason, in response to resource agency concerns and the need to avoid high value habitats. ODOT has also been developing means to mitigate unavoidable impacts to vernal pools, such as, transplanting fairy shrimp and endangered plants, and is establishing a mitigation bank to preserve off-site vernal pools. The EIS would benefit from having more detailed discussion of these mitigation strategies.

Our concern is that we believe the ODOT recommended alternative, SD with Option C, would not avoid and minimize impacts to aquatic resources to the extent practicable and available within the range of alternatives and design options available. In addition , the DEIS does not show that Alternative SD with Option C is, in fact, the least environmentally damaging alternative (LEDPA) in accordance with the 404(b)(1) guidelines. Regarding the Design Options, Option B lies close to the existing urban growth boundary and infrastructure while Option C lies farther west. The most significant difference between them seems to be the potential indirect impacts that could occur to wetlands between existing roadways and the new alignment from induced development and fragmentation.

Based on the information provided in the DEIS and in light of the unresolved issues regarding land use goal exceptions, the JTA Phase with Option B appears to be a more prudent and less damaging course of action. Though it isn't presented as a "Build" alternative in the DEIS, it is a viable and reasonable approach to address current and reasonably foreseeable needs. Rather than commit to the SD or DI Alternatives, the need for which is based on uncertain future traffic projections, we suggest constructing the JTA Phase and determine whether traffic conditions, land use changes, and local/regional livability goals support further construction.

Recommendations:

- Select the JTA Phase with Option B as the preferred alternative in the Final EIS and Record of Decision.
- Continue to examine the alignments to discern where additional impacts avoidance can be achieved.
- Visit the Green Highways website at http://www.greenhighwayspartnership.org/ for more ways to mitigate project impacts.
- In the Final EIS, provide more specific information regarding mitigation strategies for impacts to vernal pools, fairy shrimp and endangered plant species, and discuss the likelihood of implementation and success.

Ecological Connectivity

We appreciate that fish passage would be improved by replacing up to 12 non-fish passable culverts with fish passable culverts in the project area. As stated in the DEIS, these culverts may provide passage for small animals as well, but there is no indication that they would be suitably designed for this purpose. We are concerned that there are no clear provisions for safe passage of small terrestrial species, and none for large animals, such as, elk. In addition, the DEIS mentions no plan to include fencing to prevent wildlife from entering the roadway and to funnel them to safe wildlife crossing structures. These elements can best be provided by augmenting the plans for fish passage structures to accommodate safe passage for small, medium, and large terrestrial species as well.

Hydrological connectivity is also essential, particularly to increase the likelihood that vernal pool and other wetland hydrology will be maintained. The EIS should address how this would be accomplished throughout the project area, both for the bypass alignment and the new and modified local roads and streets.

Recommendations:

- Augment fish passage structures/designs to also accommodate safe passage for area wildlife species, with special focus on the needs of elk and Northwestern pond turtles as identified by ODFW conservation and habitat linkage plans. Include needed fencing.
- Identify and provide for effective hydrological connectivity zones in project design for the bypass and affected local roadways to support the hydrological integrity of vernal pools and other wetland habitats in the project area.

Need for Transportation Alternatives

The DEIS indicates that only 40% of the traffic in the OR 62 project corridor is through traffic; 60% is local traffic. Land use and access are auto-dependent, transit service is limited, non-motorized infrastructure, bike/pedestrian safety features, and transportation demand management strategies are lacking. Some sidewalks would be added to local street revisions, and the proposed bypass would allow bicyclists and pedestrians to use the highway shoulder, but this raises safety concerns more than it alleviates dependence on automobiles.

Aspirational plans for bike trails in the area indicate there is clearly interest in and need for improving non-motorized infrastructure, safety, accessibility, connectivity, walkability, and livability within the project area. The DEIS indicates (p. 2-36, 37) that ODOT will consider incorporation of transit and transportation demand management strategies into the preferred alternative as appropriate, but the DEIS presently does not include any such strategies. The proposed project should include more multi-modal features to serve local travel needs, extend the useful and effective life of the JTA Phase solution, increase transportation choices, particularly for disadvantaged populations, and mitigate impacts to community cohesion that would result from the bypass.

Recommendation:

In the Final EIS, include provisions for improved transit service, dedicated bike/pedestrian trails, routes, and facilities, and TDM strategies. Ensure that siting of the bypass and new proposed local roads and street revisions do not frustrate or preclude plans for future bike trails and non-motorized networks. For example, consider whether the Medco-Haul Road/railway bed might

better serve as a bike trail than a roadway; avoid potential project impacts to the Bear Creek Greenway; and consider the effects of the various Design Options on other future planned bike trails in the project area.

Environmental Justice, Vulnerable Populations

The DEIS discusses outreach to low income and minority populations in the project area but, except for the Spanish-speaking residents of White City who expressed need for community cohesion, the EIS does not disclose what was heard or how the concerns were addressed. The EIS states there is no disproportionate impact to low income and minority communities because the fourteen areas where there are high concentrations of low income/minority populations are interspersed with non-low income/minorities. However, the EIS does not address the potential for disadvantaged populations, which also include the elderly, disabled, and children, to be more severely affected by project impacts than less vulnerable populations. Concerns include impacts to community cohesion, isolation/access and mobility limitations for the disabled and those who do not drive; unmitigated noise impacts and its effects on quality of life, project area schools and learning environments; increased exposure to vehicular emissions including air toxics and diesel exhaust from project construction, operations, and maintenance; traffic and safety impacts from construction; de-valuation of homes affected by these impacts; and more.

Recommendations:

- In the Final EIS, fully disclose what was heard from outreach to disadvantaged populations and how project proponents are responding to the concerns. Consider the array of impacts and their potential disproportionate severity on disadvantaged and vulnerable populations, and provide means to mitigate these effects. Where noise walls are not feasible, implement alternative mitigation to alleviate noise and visual impacts, such as, increasing buffers, planting trees and shrubs, installing solid wall fencing, or installing insulation and multi-pane windows in homes.
- Provide mitigation for access and mobility impacts to elderly and disabled populations, particularly near the northern and southern termini of the proposed bypass. For example, consider local shuttles, walkways, ADA accessible pedestrian over and underpasses, and other amenities.

Air Quality, Air Toxics

The DEIS states (p. 3-295) that the additional travel lanes contemplated as part of the project alternatives would have the effect of moving some traffic closer to nearby homes, schools, and businesses, resulting in localized areas where ambient MSATs could be higher under certain build alternatives, but that this could be offset due to increases in speeds and reductions in congestion. This conclusion does not address the statement on p. 3-295 of the DEIS, that diesel emissions are an exception to this. Emissions of and exposure to diesel exhaust would increase. The EIS should acknowledge this, identify the receptors in the project area that would most likely be affected, and disclose the higher relative health risks to these receptors. The EIS should also note that the most sensitive receptors include children, the elderly, and those with respiratory conditions. Locations where concentrations of these populations would be expected include schools, daycare centers, senior centers, hospitals, medical facilities, outdoor recreation areas, and parks.

Recommendation:

Clarify the discussion in the EIS regarding elevated diesel emissions that would result from the build alternatives. Identify the sensitive receptors and locations in the project area that would experience elevated exposure to air emissions from project construction, operation, and maintenance.

Construction Emissions. We appreciate the air quality construction mitigation measures listed in the DEIS, p. 3-298. The EIS states that ODOT's standard specifications in Section 290.30 would apply during project construction. It would be helpful to disclose in the EIS what air pollution control measures are included in these specifications. Our concern is that they include a full suite of measures to minimize overall construction emissions and exposure for nearby residents and businesses as well as construction workers. Consider adding a measure to address preventative maintenance of construction equipment to further strengthen the standard specifications. For dust control, in order to avoid introducing additional toxic pollutants to soil, groundwater, surface water, and air, we recommend the use of water rather than chemicals or oil.

Recommendation:

Include the above information and mitigation refinements in the Final EIS and Record of Decision.

U.S. Environmental Protection Agency Rating System for
Draft Environmental Impact Statements
Definitions and Follow-Up Action*

Environmental Impact of the Action

LO – Lack of Objections

The U.S. Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC – Environmental Concerns

EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

EO – Environmental Objections

EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU – Environmentally Unsatisfactory

EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1 – Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2 – Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

Category 3 – Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment. February, 1987.